



JPW

Docket No.: 50179-096

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Confirmation No.: 2568
David James DALL	:	Customer No.: 20277
	:	
Serial No.: 09/936,216	:	Group Art Unit: 1638
	:	
Filed: January 23, 2002	:	Examiner: Ashwin Mehta
	:	
For: PLANTS AND FEED BAITS FOR CONTROLLING DAMAGE FROM FEEDING INSECTS		

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

This is in response to the Restriction Requirement mailed April 23, 2004. Accordingly, this response is due on or before May 23, 2004. The examiner required restriction between the inventions identified as Groups I and II. In response to this requirement, Applicants elect the invention of Group I, claims 1-8, drawn to a first product, a plant transformed with at least one polynucleotide molecule comprising a nucleotide sequence encoding one or more constituent proteins of spindle bodies or spindle-like bodies from insect virus. The requirement for restriction is respectfully traversed and reconsideration is requested.

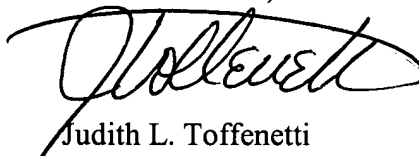
In making the restriction requirement, the Examiner holds that the inventions are different because the inventions of Groups I and II are not related to a single general inventive concept under PCT Rule 13.1. However, applicant submits that a single inventive concept has been presented and all claims should be considered in this application. Pending claims 1 to 8 relate to transgenic plants which express spindle bodies, or spindle-like bodies from an insect

virus. Claims 9 to 17 relate to feed bait compositions comprising the same proteins expressed by the transgenic plant of claim 1. Finally, claims 18 to 22 relate to the use of feed baits or transgenic plants of the claimed invention in methods of controlling or preventing damage to cause the plants from feeding insects.

At first the applicant respectfully points out, that claim 19 relies on the transgenic plant of claim 1 to 8. Therefore, claim 19 should be a part of group I. However, the “special technical feature” to offer a single general inventive concept under PCT Rule 13.1 shared by each of these claims is that they rely on the discovery that spindle bodies or spindle-like bodies proteins from insect viruses can be used to control pest insects. This feature is shared by all the pending claims. One embodiment of the claimed invention relates to how these proteins can be delivered to an insect through a transgenic plant, whereas another embodiment relates to feed baits for delivery of these proteins to an insect. Thus, transgenic plants and feed baits are merely two examples of mechanisms of delivering the proteins to an insect. Therefore, it is clear that the pending claims share a “special technical feature” in form of the delivery of the proteins to an insect. Thus, it is clear that the two groups identified by the Examiner are related and applicant submits represent a single invention. Therefore reconsideration of the restriction requirement is requested.

Respectfully submitted,

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